

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

**IN THE MATTER OF J.H.S., BY AND
THROUGH HIS MOTHER AND NEXT FRIEND, J.E.S.;**

**R.K., BY AND THROUGH HER MOTHER
AND NEXT FRIEND, J.K.;**

**AND W.S., BY AND THROUGH
HER MOTHER AND NEXT FRIEND, M.S.,**

ON BEHALF OF THOSE SIMILARLY SITUATED,

PLAINTIFFS,

v.

**UNITED STATES DISTRICT JUDGE
WAVERLY CRENSHAW**

CASE NO. 3:21-cv-00725

**GOVERNOR BILL LEE, IN HIS OFFICIAL
CAPACITY AS GOVERNOR OF TENNESSEE,
WILLIAMSON COUNTY BOARD OF EDUCATION,
AND FRANKLIN SPECIAL SCHOOL DISTRICT,**

DEFENDANTS.

PLAINTIFFS' UNOPPOSED MOTION & MEMORANDUM TO USE PSEUDONYMS

COME THE PLAINTIFFS, J.H.S., a minor student, through his mother and next friend, J.E.S.; R.K. a minor student, by and through her mother and next friend, J.K.; and W.S., a minor student, by and through her mother and next friend, M.S. They show:

1. The Court has set this matter for a hearing on Plaintiffs' requested temporary restraining order and preliminary injunction at 1:30 p.m. CST on September 20, 2021.
2. Under Federal Rule of Civil Procedure 5.2(a), unless a court orders otherwise, a filing that contains "the name of an individual known to be a minor . . . may include only" the minor's initials. Fed. R. Civ. P. 5.2(a).

3. Upon request, Plaintiffs have privately identified the names of each mother and each student to counsel for Williamson County Board of Education, Franklin Special School District, and Governor Bill Lee in order that they can access relevant information.

4. Generally, the following factors govern proceeding pseudonymously:

(1) whether the plaintiffs seeking anonymity are suing to challenge governmental activity; (2) whether prosecution of the suit will compel the plaintiffs to disclose information “of the utmost intimacy”; (3) whether the litigation compels plaintiffs to disclose an intention to violate the law, thereby risking criminal prosecution; and (4) whether the plaintiffs are children.

Doe v. Porter, 370 F.3d 558, 560 (6th Cir. 2004).

5. Here, first, the challenge is against a governmental activity. Second, prosecution does require “utmost intimacy” disclosure—underlying health and medical information of children with disabilities. Third, there is no intention to violate the law. And fourth, again, the Plaintiffs are children.

6. Identifying the parents by name risks identifying the children. Accordingly, the parents seek pseudonyms too; otherwise, their children would easily be identifiable and the purpose of Rule 5.2(a) would be frustrated. *See e.g., Bd. of Educ. v. United States Dep’t of Educ.*, 2016 U.S. Dist. LEXIS 107614, at *14-16 (S.D. Ohio Aug. 15, 2016) (recognizing the need to avoid names of parent and child and use pseudonyms).

7. Courts routinely hold that children are especially entitled to privacy, particularly when they have previously recounted retaliation or harassment or when it is a matter of public interest, as this case most certainly is. That concern extends to identifying the parents of the children. *See Bd. of Educ. v. United States Dep’t of Educ.*, 2016 U.S. Dist. LEXIS 107614, at *16 (S.D. Ohio Aug. 15, 2016); *Doe v. Harlan Cty. Sch. Dist.*, 96 F. Supp. 2d 667, 671 (E.D. Ky. 2000) (approving minor child *and her parents* proceeding under pseudonyms because of a “community

which [was] highly interested in this issue's resolution."); *accord, Zola H. v. Snyder*, No. 12-14073, 2013 U.S. Dist. LEXIS 159982, at *8 (E.D. Mich. Nov. 8, 2013); *T.C. v. Metro. Gov't of Nashville*, No. 3:17-cv-01098, 2020 U.S. Dist. LEXIS 179281, at *3 (M.D. Tenn. Sep. 29, 2020).

8. For all the foregoing reasons, Plaintiffs request this motion be granted and that pseudonyms be observed for parents and children.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I certify that this Motion and Memorandum to Use Pseudonyms was served upon counsel of record for the Defendants, through the Court's ECF filing system on September 20 2021 at the addresses below:

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/s Jessica F. Salonus

CERTIFICATE OF CONSULTATION

I certify that I consulted with counsel for all Defendants listed above via email on September 20, 2021 and there is no objection to Plaintiffs' Motion and Memorandum to Use Pseudonyms.

/s Jessica F. Salonus